

Civil Works Review Board (CWRB)  
Project Summary

Project Reviewed: Hudson-Raritan Estuary: Liberty State Park, New York

Date of CWRB: 31 October 2005

CWRB Members: MG Johnson (DCG, Chair), MG Riley (DCW); Tom Waters (Planning CoP); Don Basham (Engineering and Construction CoP); and Pat Rivers (SWD RIT Leader).

Key Participants:

HQUSACE: NAD RIT Leader (Ed Theriot), Office of Water Project Review (Colosimo, Einarsen, Warren, Matusiak), Policy and Policy Compliance Division (Leef), Office of Counsel (Cribbin), and NAD RIT (Fox, Groska).

NAD: BG Grisoli, Stuart Piken, Joe Vietri, Pete Blum and Richard Ring.

NAN: Col Polo, Arthur Connolly, Frank Santomauro, Tom Hudson, Leonard Houston, Paul Sabalis, Olivia Cackler and Robert Will.

ASACW: Mark McKevitt

Sponsor: Jose Fernandez (NJDEP, Division of Parks and Forestry) and Frank Gallagher (Liberty State Park)

OWPR Recommendation: Approval of the report for release for State and Agency review.

CWRB Decision Made: Approval of release of the report for State and Agency review and filing in the Federal Register.

Vote: Unanimous (excluding MG Riley who was called away from the meeting briefly and was not present at the time of the CWRB vote). The following conditions were placed upon this approval:

1. Adaptive management actions including monitoring costs, as opposed to operations and management needs, need to be better defined in the Chiefs Report and Feasibility Report materials.
2. Project benefits need to be better clarified and strengthened in the Chiefs Report and Feasibility Report materials, particularly emphasizing the benefit to the nation.
3. The December 2007 consent decree and its relation to the project needs to be simplified in the final report, Chiefs Report, and Summary Report, and the implications of the date associated with the consent decree need to be better explained in the final report.

Key Issues/Questions Raised by the CWRB (in no particular order):

1. It was not clear to the CWRB members if the project was restoring the historical ecological condition or not. The district explained that the plan formulation was constrained by the available land and, as a result, it only restores roughly 10 percent of the original ecosystem. It generally acknowledged that restoration of the original

conditions in an urban environment is unachievable and is not a meaningful way to view project performance. In some of the presentation and read ahead materials, there was mention of creating a “world class estuary” and the district was reminded that while it may be a laudable goal, we should really focus on the simple goal of recreating a natural condition on the project site.

2. Concerns regarding the potential to uncover additional “hot spots” were discussed. The district explained that if any additional “hot spots” are uncovered during the PED or construction phase, the responsible party would have to ameliorate the identified environmental issues separately from the Corps ecosystem restoration project.
3. The CWRB members inquired as to whether the policy compliance issue related to the connection between upland and aquatic resources had been adequately addressed by the district. The district explained that resolution was in process and that based on a conference call among the vertical team preceding the CWRB meeting, a path forward had been determined. The final report will be revised to address the issue.
4. The drastic difference between the consent decree required project and the proposed plan was questioned. It was explained that historically, capping the site is traditional solution, however based on a survey of the affected public; there is a distinct interest in more natural solutions (90% of respondents indicated support for more natural solutions). In fact, it was explained, the public did not want any potential for commercial development and expressed an interest in the lands remaining public use. The sponsor explained that the project formulation process was very inclusive with regards to the public and that it was a good working relationship. It was noted that the proposed project obviated the need for the cap requirement associated with the consent decree.
5. It was noted that the Summary Report indicates that if the project is not in place by December 2007, the site will need to be capped to meet consent decree requirements. Concerns about the ability of the project to be approved, funds provided, and construction completed by that date were expressed. The sponsor clarified that they really need an approved plan, via a Chief of Engineers Report, to meet the consent decree and acknowledged that this points needs to be better clarified in the final report.
6. The need for the project to capture adaptive management actions systematically to ensure learning lessons can be applied to other similar urban restoration projects nationwide was discussed. The district agreed this was important. Some confusion about what adaptive management features were included in the project based on the Report Summary was expressed. It was acknowledged that there was a need to make sure such features were not glossed over in the Summary Report, Chiefs Report, or the final report. It was also noted that the distinction between O&M and Adaptive Management actions with regards to invasive species needed to be better clarified in the report.
7. The CWRB inquired as to whether the chromium site locations were known. The district indicated they were known and they are located outside of the restoration project boundaries.

8. Concerns were expressed about the relatively high costs/acre for the project. The district explained that the costs are relative. The district indicated that costs were commensurate with other urban restoration projects such as South River and Monmouth. Further, the district indicated that while the project may have a relatively high cost when compared with other projects across the nation, it was up to others to determine whether it is supportable from a budgetary standpoint.
9. The differences in outputs between the \$7M and \$32M plans were discussed. The district was reminded that the Chiefs Report and Summary Report needed to clearly lay out what we are buying for the additional increment in costs.
10. Questions related to the type of contaminants found on the site and the ability of the site to support aquatic life were raised. The district indicated that the contaminants were typical of a former industrial site and that by adding clean material (beneficial use material from NY/NJ Harbor dredging) aquatic life will be supportable. The district also explained that the top 15-20 feet of material will be removed from parts of the site as part of the project.
11. It was noted that the draft Chief of Engineers Report was relatively weak on the project benefits, monitoring requirements, and any adaptive management actions necessary to protect the efficacy of the investment.

Other Issues of Note:

1. CWRB members expressed concerns about the use of different measurement units for ecosystem restoration projects and the general need for an overarching metric to allow for better comparison among projects.
2. It was noted that the report focused too much on the consent decree. It was agreed that the consent decree should not be the focus of the final report as it is not the reason the Corps is involved. The final report should more appropriately focus on outlining the problem and demonstrating cost-effective and technically sound solutions. Lengthy discussions related to the consent decree detract from the overall purpose of the proposed project.
3. MG Johnson indicated that in the implementation of the new CWRB process, we needed to: evaluate the role of the District and Division Commanders in the CWRB process; outline the amount of time District Commanders are requiring to prepare for the CWRB brief; and compared the pre-CWRB process, how much time District Commanders spent facilitating the Chiefs Report process. Specifically, MG Johnson indicated we owe the Chief a professional opinion on the process.

Attachments: PowerPoint handouts (including District Engineer, Division Engineer, Sponsor and Office of Water Project Review briefs); Project Summary; DE Transmittal Letter; and Draft Chief of Engineers Report.